

The House Committee on Judiciary offers the following substitute to HB 200:

A BILL TO BE ENTITLED
AN ACT

To amend Part 4 of Article 1 of Chapter 8 of Title 40 of the Official Code of Georgia Annotated, relating to horns, exhaust systems, mirrors, windshields, tires, safety belts, and energy absorption systems, so as to provide that the failure to use seat safety belts may be admitted into evidence under certain circumstances; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 4 of Article 1 of Chapter 8 of Title 40 of the Official Code of Georgia Annotated, relating to horns, exhaust systems, mirrors, windshields, tires, safety belts, and energy absorption systems, is amended by revising subsection (d) of Code Section 40-8-76.1, relating to use of safety belts in passenger vehicles, as follows:

"(d)(1) The failure of an occupant of the front seat of a motor passenger vehicle to wear a seat safety belt in any the front seat of a motor passenger vehicle which has a seat safety belt or belts ~~shall not be considered evidence of negligence or causation, shall not otherwise be considered by the finder of fact on any question of liability of any person, corporation, or insurer, shall not be any basis for cancellation of coverage or increase in insurance rates, and but shall not be considered evidence used to diminish any recovery for damages arising out of the ownership, maintenance, occupancy, or operation of a motor vehicle~~ in mitigation of the party's damages only if the court finds:

(A) The party introducing such evidence has pleaded such failure as a defense prior to the entry of a pretrial order;

(B) The person whose injuries are the subject of a claim was at least 14 years of age at the time of his or her injury; and

(C) The party offering such evidence proves by expert testimony that the injured party's failure to use a seat safety belt contributed to the injuries claimed by the plaintiff.

(2) If the court finds that the evidence supports the findings set forth in paragraph (1) of this subsection, the trier of fact may find that the plaintiff's failure to wear a seat safety belt in violation of this subsection contributed to the plaintiff's claimed injuries and may reduce the amount of the plaintiff's recovery; provided, however, that notwithstanding subsection (g) of Code Section 51-12-33, while the trier of fact may reduce a person's right to recover damages according to the proportion of those damages attributable to such person's failure to wear a seat safety belt, a person's failure to wear a seat safety belt shall not serve to deprive such person from recovering that portion of his or her damages attributable to the negligence of another."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.